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BEFORE THE ARIZONA CORPORATION COMMISSION

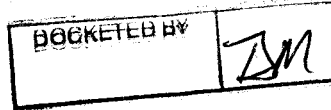
Arizona Corporation Commission

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COMMISSIONERS

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

J. ALAN SMITH,

COMPLAINANT,

VS.

PAYSON WATER CO., INC. /BROOKE
UTILITIES, INC.

RESPONDENT.

DOCKET NO. W-03514A-12-0007

PROCEDURAL ORDER

BY THE COMMISSION:

On January 10, 2012, J. Alan Smith ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Formal Complaint against Payson Water Co., Inc. ("Payson Water" or "Company") and Brooke Utilities, Inc.

On February 2, 2012, Payson Water filed an Answer to the Complaint and Motion to Dismiss.

On February 16, 2012, the Complainant filed a Reply to Respondent's Answer.

On February 23, 2012, a Procedural Order was issued scheduling a procedural conference for March 9, 2012.

On March 9, 2012, the procedural conference was held as scheduled.

On March 29, 2012, the Company filed a Motion to Dismiss.

On March 30, 2012, Payson Water filed a Motion to Quash Brooke Utilities, Inc. as a Party to the Complaint.

On April 3, 2012, the Complainant filed a Response and Objection to Respondent's Motion to Quash Brooke Utilities, Inc. as a Party to the Complaint and Motion to Deny.

On April 3, 2012, the Complainant filed a Response and Objection to Respondent's Motion to Dismiss and Motion to Deny.

1 On April 9, 2012, Payson Water filed a Reply to Complainant's Response to Payson Water
2 Co.'s Motion to Dismiss and Motion to Deny.

3 On April 9, 2012, the Company also filed a Reply by Payson Water Co. to Complainant's
4 Response and Objection to Respondent's Motion to Quash Brooke Utilities, Inc. as a Party to the
5 Complaint.

6 On April 13, 2012, the Complainant filed a Response and Objection to Respondent's Motion
7 to Quash Brooke Utilities, Inc. as a Party to the Complaint and Motion to Deny.

8 On April 13, 2012, the Complainant also filed an Objection to Respondent's Reply to
9 Complainant's Response to Respondent's Motion to Dismiss and Motion to Stay.

10 On April 20, 2012, the Commission's Utilities Division ("Staff") filed a Notice of Filing
11 regarding the status of a subpoena issued to Martin's Trucking.

12 On May 3, 2012, Staff filed a Status of Mediation indicating that a settlement was not reached
13 by the parties and requesting that a hearing be scheduled.

14 On June 18, 2012, a Procedural Order was issued scheduling a hearing for August 7, 2012,
15 and setting deadlines for the filing of pre-filed testimony.

16 On July 16, 2012, the Complainant filed a Notice of Complainant's Initial Discovery and
17 Disclosure.

18 On July 17, 2012, the Complainant filed his direct testimony.

19 On July 23, 2012, the Complainant filed a Notice of Complainant's Second Discovery and
20 Disclosure.

21 On July 30, 2012, Payson Water filed rejoinder testimony.

22 On July 30, 2012, Staff filed a Memorandum stating its position regarding the complaint.

23 On August 1, 2012, the Complainant filed a Notice of Complainant's Third Discovery and
24 Disclosure.

25 On August 1, 2012, the Complainant filed a Notice of Service of Process Subpoenas on Jim
26 Pearson and Pearson Water Company.

27 On August 1, 2012, the Complainant filed a Motion to Compel Jim Pearson and Pearson
28 Water Co. to Comply with Subpoenas.

1 On August 1, 2012, the Complainant filed a Motion to Compel Respondents to Comply with
2 Complainant's 1st Set of Data Requests.

3 On August 1, 2012, Payson Water filed a Supplemental Motion to Quash Brooke Utilities Inc.
4 as a Party to the Complaint.

5 On August 2, 2012, Payson Water filed a Notice of Initial Disclosure.

6 On August 6, 2012, Payson Water filed a Supplemental Motion to Dismiss.

7 On August 7, 2012, the Complainant filed a Notice of Complainant's Fourth Discovery and
8 Disclosure.

9 On August 7, 2012, the hearing in this matter was convened, and at which time the
10 Complainant requested a continuance of the hearing for 90 days. The Complainant indicated that he
11 had consulted with an attorney who had agreed to represent him in this complaint case, but the
12 attorney needed an additional 60 to 90 days to review the case file. On that basis, the hearing was
13 continued for 90 days, on the condition that the Complainant's attorney discuss with the other parties
14 an alternative hearing schedule and submit such schedule well before the 90 days were exhausted. To
15 date, no appearance of counsel has been filed on behalf of the Complainant; nor has a proposal been
16 submitted with alternative hearing dates.

17 On August 7, 2012, Dennis B. Tresca filed an Application for Intervention.

18 On August 13, 2012, Payson Water filed a Motion to Dismiss a Portion of the Complaint.

19 On August 13, 2012, Payson Water filed an Objection to Complainant's Fourth Discovery and
20 Disclosure.

21 On August 13, 2012, Payson Water filed an Objection to Application of Dennis B. Tresca for
22 Intervention.

23 On August 20, 2012, Payson Water filed a Notice of Timely Compliance with Subpoena.

24 On August 20, 2012, the Complainant filed a Response to Respondent's Objection to Tresca
25 Application for Intervention and Motion to Deny.

26 On August 20, 2012, the Complainant filed a Response to Respondent's Objection to
27 Complainant's Fourth Discovery and Disclosure and Motion to Deny.

28 On August 20, 2012, the Complainant filed a Response to Respondent's Motion to Dismiss a

1 Portion of the Complaint and Motion to Deny.

2 On August 23, 2012, Payson Water filed a Reply to Complainant's Response to Respondent's
3 Motion to Dismiss a Portion of the Complaint.

4 On September 4, 2012, the Complainant filed a Response to Respondent's Reply to
5 Complainant's Challenge to Motion to Dismiss a Portion of the Complaint.

6 On September 6, 2012, Payson Water filed a Motion to Quash Subpoena.

7 On September 12, 2012, the Complainant filed a Notice of Service of Process Subpoenas on
8 Robert T. Hardcastle, Brooke Utilities, Inc., and Payson Water Co.

9 On September 13, 2012, the Complainant filed a Response and Objection to Respondent's
10 Motion to Quash Subpoena.

11 On September 13, 2012, Mary E. Hansen filed an Application for Intervention.


12 IT IS THEREFORE ORDERED that a **procedural conference shall be scheduled for**
13 **September 28, 2012, at 10:00 a.m.**, at the offices of the Commission, Hearing Room No. 1, 1200
14 West Washington, Phoenix, Arizona 85007, to discuss pending procedural matters.

15 IT IS FURTHER ORDERED that **counsel for the Complainant shall file a Notice of**
16 **Appearance prior to the September 28, 2012**, procedural conference, and shall attend that
17 procedural conference and all subsequent hearings, and shall file all future pleadings as the attorney
18 representing the Complainant.

19 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
20 Communications) applies to this proceeding and shall remain in effect until the Commission's
21 Decision in this matter is final and non-appealable.

22 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
23 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
24 hearing.

25 DATED this 17th day of September, 2012.

26 
27 DWIGHT D. NODES
28 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

1 Copies of the foregoing mailed/delivered
2 This 17th day of September, 2012 to:

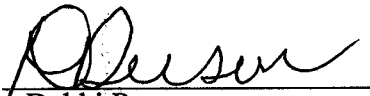
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4 J. Alan Smith
8166 Barranca Road
Payson, AZ 85541

5
6 Robert T. Hardcastle
BROOKE UTILITIES, INC.
P.O. Box 82218
7 Bakersfield, CA 93380

8 Janice Alward, Chief Counsel
9 Legal Division
ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
Phoenix, AZ 85007

11 Steve Olea, Director
12 Utilities Division
ARIZONA CORPORATION COMMISSION
13 1200 West Washington Street
Phoenix, AZ 85007

14 ARIZONA REPORTING SERVICE, INC.
15 2200 North Central Avenue, Suite 502
Phoenix, AZ 85004

16
17 By: 
Debbi Person
18 Assistant to Dwight D. Nodes
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